

AMENDED IN ASSEMBLY JANUARY 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1442**

**Introduced by Assembly Member Shelley**

February 26, 1999

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~~An act to amend Section 1569.61 of, and to add Article 2.5 (commencing with Section 1569.25) to Chapter 3.2 of Division 2 of, the Health and Safety Code, relating to residential care facilities for the elderly. An act to amend Section 13515 of the Penal Code, relating to peace officer training.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1442, as amended, Shelley. ~~Residential care facilities for the elderly: residents' rights~~ *Peace officer standards and training: elder abuse.*

*Existing law requires every city police officer or deputy sheriff at a supervisory level and below who is assigned field or investigative duties to complete an elder abuse training program certified by the Commission of Peace Officer Standards and Training.*

*This bill would require that training to address the physical abuse of elders, the mental health and intimidation of elders, and the role of the local adult protective services and public guardian offices.*

*This bill would also require the Health and Human Service Agency in conjunction with the Attorney General's office to establish a statewide elder abuse awareness media campaign.*

~~The California Residential Care Facilities for the Elderly Act provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services, and generally sets forth the requirements to be met by the facilities in that regard. Existing law also requires the department to develop and maintain at each district office a file for each facility in that district, containing all documents regarding the facility that were received or created by the department on or after January 1, 1999.~~

~~This bill additionally would prohibit the physical or chemical restraint of residents in a residential care facility for the elderly, except as specified. It would set forth certain requirements regarding the admissions agreements entered into by facilities and residents, rate increases for items or services, and the transfer or eviction of residents. It would also require the department to develop and establish a consumer information service system, with access by a toll-free telephone number, through the Internet, and at district offices of the Community Care Licensing Division of the department, to provide updated and accurate information, including specified components, to the general public and consumers regarding residential care facilities for the elderly in their communities.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. The Legislature finds and declares as~~  
2     ~~SECTION 1. Section 13515 of the Penal Code is~~  
3     ~~amended to read:~~  
4     ~~13515. (a) Every city police officer or deputy sheriff~~  
5     ~~at a supervisory level and below who is assigned field or~~  
6     ~~investigative duties shall complete an elder abuse~~  
7     ~~training course certified by the Commission on Peace~~  
8     ~~Officer Standards and Training by January 1, 1999, or~~  
9     ~~within 18 months of assignment to field duties.~~  
10    ~~Completion of the course may be satisfied by telecourse,~~  
11    ~~video training tape, or other instruction. The training~~  
12    ~~shall, at a minimum, address relevant laws, recognition,~~

~~reporting requirements and procedures, neglect, and fraud. The all of the following:~~

~~(1) Relevant laws.~~

~~(2) Recognition of elder abuse.~~

~~(3) Reporting requirements and procedures.~~

~~(4) Neglect of elders.~~

~~(5) Fraud of elders.~~

~~(6) Physical abuse of elders.~~

~~(7) Mental health and intimidation of elders.~~

~~(8) The role of the local adult protective services and public guardian offices.~~

~~The course may be presented as part of a training program that includes other subjects or courses.~~

~~(b) The Health and Human Service Agency in conjunction with the Attorney General's office shall establish a statewide elder abuse awareness media campaign.~~

~~follows:~~

~~(a) For a resident of a residential care facility for the elderly, the facility often becomes his or her home on a long-term basis. Therefore, it is important that the resident be guaranteed certain resident rights that allow him or her to live with dignity. It also is important that, prior to admission, an individual have easy access to the information held by the State Department of Social Services regarding residential care facilities for the elderly.~~

~~(b) It is the intent of the Legislature in enacting this act to establish rights that protect the dignity of the residents of residential care facilities for the elderly, and allow the residents, if appropriate, to remain in facilities on a long-term basis. It is the further intent of the Legislature to require the State Department of Social Services to make information on residential care facilities for the elderly easily available.~~

~~SEC. 2. Article 2.5 (commencing with Section 1569.25) is added to Chapter 3.2 of Division 2 of the Health and Safety Code, to read:~~

Article 2.5—Resident's Rights

1569.25. For purposes of this article, the following definitions shall apply:

(a) "Admissions agreement" includes all documents that a resident or his or her representative must sign at the time of, or as a condition of, admission to a residential care facility for the elderly.

(b) "Representative" or "resident's representative" means any of those persons described in subdivision (d) of Section 72527 of Title 22 of the Code of Regulations.

1569.26. A resident of a residential care facility for the elderly has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience. Restraints shall only be used to ensure the physical safety of the resident or other residents, and only upon both the written order of a physician that specifies the duration and circumstances under which the restraints are to be used, and the written consent of the resident or the resident's representative.

1569.265. (a) If a resident of a residential care facility for the elderly is admitted to any health facility as defined in Section 1250, the residential care facility for the elderly shall afford the resident a bed hold of up to 30 days. This bed hold may be exercised either by the resident or the resident's representative.

(b) By no later than 24 hours after resident's transfer to a health facility, the residential care facility for the elderly shall provide the resident or resident's representative with written notice of the right to a bed hold. The resident or resident's representative shall exercise the bed hold right within 48 hours after receiving the written notice.

(c) If a bed hold right is exercised, the resident shall be financially liable for all bed hold days, at a rate not to exceed the rate customarily paid by the resident.

1569.27. (a) All admission agreements to residential care facilities for the elderly shall list the justifications for eviction allowable under state law, exactly as they are worded in the applicable statute or statutes. All admission

~~agreements shall also include the following notification regarding eviction:~~

~~“If this facility ever intends to evict you, the facility is required to first give you a written notice that lists the legal reason for eviction. This written notice is also required to list a proposed eviction date that is required to be at least 30 days after the date on which the written notice is given to you.~~

~~“If you receive an eviction notice, but the reason in the notice does not apply to your situation, you may contest the eviction by remaining in the facility beyond the proposed eviction date. On the proposed eviction date, the facility may then elect to take action to evict you by serving you with a summons and complaint. You will have five days, including Saturdays and Sundays, to file an answer with the local court. The court then will schedule a trial to determine whether or not the facility can evict you.”~~

~~(b) All admission agreements shall list all items and services for which a separate charge is to be assessed by the residential care facility for the elderly. If the initial admission agreement does not authorize a separate charge for a particular item or service, the facility may at no time assess a separate charge for that item or service.~~

~~(c) Every residential care facility for the elderly shall make complete blank copies of its admission agreement available immediately upon request by any member of the public, upon payment of copying costs not to exceed 10 cents (\$0.10) per page.~~

~~1569.28. Rate increases, whether assessed to the basic rate or the rate for particular items or services, may be assessed by a residential care facility for the elderly only once every 12 months. The first rate increase may be assessed only after a resident has resided for at least 12 months in the facility.~~

~~1569.29. (a) When residents of a residential care facility for the elderly are to be transferred or evicted from the facility due to any change in the status of the license or operation of the facility, including but not limited to, voluntary or involuntary loss of license, the~~

1 facility shall take reasonable steps to ensure that residents  
2 are safely moved to appropriate residences, and that  
3 possible transfer trauma is minimized. These reasonable  
4 steps include, but are not limited to, all of the following:

5 (1) Evaluating the relocation needs of the resident and  
6 the resident's family, and determining the most  
7 appropriate and available type of future care and services  
8 for the resident.

9 (2) Notifying the resident or the resident's  
10 representative in writing, at least 30 days in advance of  
11 the expected change in the status of the license or  
12 operation of the facility, of alternative facilities that are  
13 available and adequate to meet the needs of the resident  
14 and the resident's family. The written notice shall include  
15 notification of all of the facility's obligations under this  
16 subdivision.

17 (3) Arranging for appropriate care and services for the  
18 resident in the future, unless the resident or resident's  
19 representative otherwise has made these arrangements.  
20 This requirement shall not obligate a facility to pay for  
21 future care and services.

22 (b) A residential care facility for the elderly shall  
23 arrange for an appropriate team of professional staff to  
24 perform the services required in subdivision (a).

25 (c) The department may provide, or arrange for the  
26 provision of, necessary relocation services at a residential  
27 care facility for the elderly, if the department determines  
28 that these services are needed promptly to prevent  
29 adverse health consequences to residents, and the facility  
30 refuses, or does not have adequate staffing, to provide the  
31 services. In these cases, the department shall be entitled  
32 to reimbursement from the licensee for the cost of  
33 providing the relocation services. If a facility's refusal to  
34 provide the relocation services required in subdivision

35 (a) endangers the health or safety of residents, the  
36 department also may request that the Attorney General  
37 or the local district attorney seek injunctive relief and  
38 damages as provided in Chapter 5 (commencing with  
39 Section 17200) of Part 2 of Division 7 of the Business and  
40 Professions Code.

~~(d) If 10 or more residents are likely to be transferred or evicted due to any change in the status of the license or operation of the residential care facility for the elderly, including but not limited to, voluntary or involuntary loss of license, the facility shall submit a proposed relocation plan for the affected residents to the department for comment, if any, at least 45 days prior to the transfer or eviction of any resident. The plan shall provide implementation of the relocation services listed in subdivision (a), and shall describe the availability of alternative residences in the area, the proposed discharge process, and the staffing available to assist in transfers. At least 30 days prior to the transfer or eviction of any resident, the facility shall submit its final relocation plan to the local office of the long-term care ombudsman program and, if the final plan differs from the proposed plan, to the department.~~

~~SEC. 3. Section 1569.61 of the Health and Safety Code is amended to read:~~

~~1569.61. (a) The department shall develop and maintain at each district office a file for each facility in that district, containing all documents regarding the facility that were received or created by the department on or after January 1, 1999, and that are not confidential under other provisions of law. This file shall be available immediately upon the request of any consumer who shall have the right to obtain copies of documents from the file upon the payment of a reasonable charge for the copies.~~

~~(b) The department shall develop and establish a consumer information service system to provide updated and accurate information to the general public and consumers regarding residential care facilities for the elderly in their communities. The consumer information service system shall include, but need not be limited to, an inquiry system accessible through a statewide toll-free telephone number, through the Internet, and at the district office of the Community Care Licensing Division of the department. This inquiry system shall include at least all of the following elements:~~

1     ~~(1) A profile for each residential care facility for the~~  
2 ~~elderly, which shall include data on services provided by~~  
3 ~~the facility, all deficiencies and citations noted by the~~  
4 ~~department in the facility during the four preceding~~  
5 ~~years, and all owners and changes of ownership in the~~  
6 ~~facility during the four preceding years.~~

7     ~~(2) The date and amount of each citation issued, all~~  
8 ~~further actions and appeals regarding each citation, all~~  
9 ~~money paid by a facility toward a citation, and the current~~  
10 ~~status of the citation.~~

11     ~~(3) All monetary fines assessed or collected, or both, by~~  
12 ~~the department related to residential care facilities for~~  
13 ~~the elderly, with the capability of analyzing the data by~~  
14 ~~facility, county, and year.~~

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